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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/781,400	02/17/2004	Thomas Sutton	FLEX-00400	1877
28960	7590	03/31/2005		
HAVERSTOCK & OWENS LLP 162 NORTH WOLFE ROAD SUNNYVALE, CA 94086			EXAMINER DATSKOVSKIY, MICHAEL V	
			ART UNIT 2835	PAPER NUMBER

DATE MAILED: 03/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

N.A

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/781,400	SUTTON ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Michael V. Datskovskiy	2835	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 February 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-57 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1,3-14,20,22,23,25-34,36,38,41,43-52,54,56 and 57 is/are rejected.
- 7) ☐ Claim(s) 2,15-19,21,24,35,37,39,40,42,53 and 55 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/19/04; 05/19/04</u> . | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

2. Claims 5, 36-37 and 54-55 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding to claim 5: It is not clear, how in a first position an entry can be made on the first interface, if according to the parent claim 1 in the first position the first interface is obscured.

Regarding to the claims 36-37 and 54-55: Because the respective parent claims 20 and 38 already claimed a third (music listening) interface, claims 36-37 and 54-55 claim the presence of an additional (actually fourth) interface, which is not supported by the specification.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 1, 3-14, 36, 38, 41, 43-52, 54, 56-57 are rejected under 35 U.S.C. 102(e) as being anticipated by Pekka.

Pekka teaches an electronic device, Figs. 1-4, comprising: a first substantially planar panel 14 including a display; a second substantially planar panel 16 including a first interface, said second panel being hinged to a first edge of the first panel ; a third substantially planar panel 12 including a second interface, said second panel being hinged to a second edge of the first panel. Pekka teaches furthermore said electronic device, wherein in a first , closed position the interfaces and the display are completely obscured and in a second, opened position the interfaces and the display are exposed. Pekka teaches furthermore said electronic device including a third (music listening or game controlling) interface on an outer side of the second or the third interface panels. Pekka also teaches that by making said panels comprising on inner side and outer side different types controlling keyboard panels (see Figs. 3A-3G and page 4, paragraphs

[044] - [0056]) it is possible to create various types of a portable, handheld electronic device: phone, radio receiver, global positioning, QWERTY keyboard controlling typing display, game controlling device, DVD video player, etc. Pekka also teaches said interfaces being capable of controlling said display individually or interconnected between each other, and said electronic device having a connector for connecting to the other electronic device (paragraph [0051]). Pekka teaches furthermore said electronic device can be operated by the third keyboard interface located on the outer side of the second or the third panel in different modes (including as game controlling device or as music listening device) while being in opened position as well as in closed position.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 20, 22-23, 25-34, 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pekka in view of Dunleavy.

Pekka teaches all the limitations of the claims, (including that said electronic device can be customized by combining different interface features shown in Figs. 3A-3F, wherein said panels are being exchangeable), except said first interface and said second interface are gaming interfaces, while said third interface is a music listening interface.

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Dunleavy teaches an electronic device, Figs. 1-6, comprising: a first substantially planar panel 22 including a display 12; a second substantially planar panel 16 including a first interface, said second panel being hinged to the first panel 22; a third substantially planar panel 14 including a second interface, said second panel being hinged to the other side of the first panel 22. Donleavy teaches furthermore said electronic device including a third interface 48 on an outer side of the second panel. Dunleavy also teaches that by making said panels comprising on inner side and outer side different types controlling keyboard panels it is possible to create various types of a portable, handheld electronic device: in the closed position - phone, and in the open position - QWERTY keyboard controlling typing display or game controlling device, wherein said interfaces being capable of controlling said display individually or interconnected between each other, (col.3, lines 16-53). It would have been obvious to one ordinary skilled in the art at the time invention was made to customize the electronic device by Pekka to operate in the open position as a game-controlling panel, as it is shown by Dunleavy, in order to enhance function capabilities of the device.

***Allowable Subject Matter***

7. Claims 2, 15-19, 21, 24, 35, 39-40, 53 and 55 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. Claims 37 and 55 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

9. The following is a statement of reasons for the indication of allowable subject matter: When in the first position (closed) the display is partially exposed through an opening between the second panel and the third panel (claims 2, 15-19, 24, 42); the music listening interface is located on a third side edge of the first panel (claims 21, 39 and 55); the connector is located on the third edge of the first panel (claims 35 and 53); the gaming interface is located is located on a third side edge of the first panel (claim 37); the music listening interface is located on a face side edge of the first panel (claim 40).

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Ni (US Patent 6,297,752); Bowen (US Patent 5,644,338); Mack et al (US Patent 6,510,325); Finke-Anlauff (US Patent Application Publication 2002/0006815A1); Kim (US Patent Application Publication 2005/0020323A1, most of them being applicable for the rejection of the at least claim 1 of the instant application.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael V. Datskovskiy whose telephone number is (571) 272-2040. The examiner can normally be reached on 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynn Feild can be reached on (571) 272-2092. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Michael V Datskovskiy  
Primary Examiner  
Art Unit 2835

03/25/2005